

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1688**

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**Introduced by Assembly Member Goldberg**  
*(Coauthor: Assembly Member Koretz)*

February 21, 2003

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An act to add Part 8.5 (commencing with Section 2050) to Division 2 of the Labor Code, relating to car washes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1688, as amended, Goldberg. Car washes.

Existing law regulates various aspects of workplace and employee safety and health.

This bill would regulate the industry of car washing and polishing by providing specific recordkeeping requirements that employers of car washers must implement with regard to car washer wages, hours, and working conditions. The bill would require employers of car washers to register with the Labor Commissioner, pay a specified registration fee, and obtain a specified surety bond. Failure to register pursuant to these provisions would be a misdemeanor, punishable by specified penalties. These penalties and registration fees would be deposited in the Car Wash Worker Fund, which this bill would create, for disbursement by the commissioner, upon appropriation by the Legislature.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) California is home to hundreds of full-time car washes that  
4 employ tens of thousands of car wash workers.

5 (b) The work performed by car wash employees is laborious,  
6 fast-paced, and often hazardous.

7 (c) Car wash employees work long hours and may service  
8 hundreds of vehicles on any given workday.

9 (d) According to various legal advocates, the car wash industry  
10 is plagued with labor law violations, including minimum wage,  
11 overtime, and rest and meal period violations.

12 (e) Many car wash employees, commonly known as  
13 “propineros,” are not paid a wage by their employers and receive  
14 only the tips given by customers.

15 (f) Many other car wash employees are paid below the  
16 minimum wage and not paid at an overtime rate for overtime hours  
17 worked.

18 (g) A significant number of car wash employees have been  
19 harassed, intimidated, and mistreated by their employers because  
20 of their immigration status.

21 (h) As a result of low wages and widespread labor law  
22 violations, many car wash employees are forced to work in  
23 substandard working conditions and live in poverty.

24 (i) Existing labor laws and enforcement efforts have failed to  
25 remedy these problems.

26 (j) Therefore, it is the intent of the Legislature, in enacting this  
27 act, to establish a system of registration, bonding requirements,  
28 and prompt and effective criminal and civil sanctions for the  
29 violation of the provisions set forth in this act or any provision of



1 law applicable to the employment of workers in the car washing  
2 and polishing industry.

3 SEC. 2. Part 8.5 (commencing with Section 2050) is added to  
4 Division 2 of the Labor Code, to read:

5  
6 PART 8.5. CAR WASHES

7  
8 CHAPTER 1. GENERAL PROVISIONS

9  
10 2050. The enactment of this part is an exercise of the police  
11 power of the State of California for the protection for the public  
12 welfare, prosperity, health, safety, and peace of its people. The  
13 civil penalties provided by this chapter are in addition to any other  
14 penalty provided by law.

15 2051. As used in this part:

16 (a) “Car washing and polishing” means washing, cleaning,  
17 drying, polishing, detailing, servicing, or otherwise providing  
18 cosmetic care to vehicles. “Car washing and polishing” does not  
19 include motor vehicle repair, as defined in Section 9880.1 of the  
20 Business and Professions Code.

21 (b) “Employer” means any individual, partnership,  
22 corporation, limited liability company, joint venture, or  
23 association engaged in the business of car washing and polishing  
24 that engages any other individual in providing those services.  
25 “Employer” does not include any charitable, youth, service,  
26 veteran, or sports group, club, or association that conducts car  
27 washing and polishing on an intermittent basis to raise funds for  
28 charitable, education, or religious purposes. “Employer” does not  
29 include any licensed vehicle dealer or automotive repair business  
30 that conducts car washing and polishing ancillary to its primary  
31 business of selling, leasing, or servicing vehicles.

32 (c) “Employee” means any person, including an alien or  
33 minor, who renders actual services in any business for an  
34 employer, whether for tips or for wages, and whether wages are  
35 calculated by time, piece, task, commission, or other method of  
36 calculation, and whether the services are rendered on a  
37 commission, concessionaire, or other basis.

38 (d) “Commissioner” means the Labor Commissioner.

39 2052. Every employer shall keep accurate records for three  
40 years, showing all of the following:

1 (a) The names and addresses of all employees engaged in  
2 rendering actual services for any business of the employer.

3 (b) The hours worked daily by each employee, including the  
4 times the employee begins and ends each work period.

5 (c) All gratuities received daily by the employer, whether  
6 received directly from the employee or indirectly by deduction  
7 from the wages of the employee or otherwise.

8 (d) The wage and wage rate paid each payroll period.

9 (e) The age of all minor employees.

10 (f) Any other conditions of employment.

11 2053. The Division of Labor Standards and Enforcement  
12 shall enforce this chapter. The commissioner shall adopt all  
13 regulations and rules necessary to carry out the provisions of this  
14 chapter.

15  
16 CHAPTER 2. REGISTRATION  
17

18 2054. Every employer shall register with the commissioner  
19 annually.

20 2055. The commissioner may not permit any employer to  
21 register, nor may the commissioner permit any employer to renew  
22 registration until all of the following conditions are satisfied:

23 (a) The employer has applied for registration to the  
24 commissioner by presenting proof of compliance with the local  
25 government's business licensing or regional regulatory  
26 requirements.

27 (b) The employer has obtained a surety bond issued by a surety  
28 company admitted to do business in this state. The principal sum  
29 of the bond shall be not less than ten thousand dollars (\$10,000).  
30 The employer shall file a copy of the bond with the commissioner.

31 (1) The bond required by this section shall be in favor of, and  
32 payable to the people of the State of California and shall be for the  
33 benefit of any employee damaged by his or her employer's failure  
34 to pay wages, interest on wages, or fringe benefits, or damaged by  
35 violation of Section 351 or 353.

36 (2) Thirty days prior to the cancellation or termination of any  
37 surety bond required by this section, the surety shall send written  
38 notice to both the employer and the commissioner, identifying the  
39 bond and the date of the cancellation or termination.

1 (3) An employer may not conduct any business until the  
2 employer obtains a new surety bond and files a copy of it with the  
3 commissioner.

4 (c) The employer has documented that a current workers'  
5 compensation insurance policy is in effect for the employees.

6 (d) The employer has paid a registration fee to the  
7 commissioner in the amount of one hundred fifty dollars (\$150)  
8 plus an additional seventy-five dollars (\$75) for each branch  
9 location maintained in this state by the employer.

10 2056. When a certificate of registration is originally issued or  
11 renewed under this chapter, the commissioner shall provide  
12 related and supplemental information to the registrant regarding  
13 business administration and applicable labor laws.

14 2057. Proof of registration shall be by an official Division of  
15 Labor Standards Enforcement registration form. Each employer  
16 shall post the registration form where it may be read by the  
17 employees during the workday.

18 2058. At least 30 days prior to the expiration of each  
19 registrant's registration, the commissioner shall mail a renewal  
20 notice to the last known address of the registrant. However,  
21 omission of the commissioner to provide the renewal notice in  
22 accordance with this subdivision may not excuse a registrant from  
23 making timely application for renewal of registration, may not be  
24 a defense in any action or proceeding involving failure to renew  
25 registration, and may not subject the commissioner to any legal  
26 liability.

27 2059. The commissioner shall require that, as a condition of  
28 continued registration, the following employers shall maintain a  
29 bond issued by a surety company admitted to business in this state:

30 (a) A twenty thousand dollar (\$20,000) wage bond is required  
31 if an employer has violated any federal or state labor law  
32 governing the minimum wage and overtime, child labor,  
33 occupational safety and health, or worker's compensation or has  
34 been subject to a final judgment for failure to pay wages due his  
35 or her car wash employees.

36 (b) A twenty-five thousand dollar (\$25,000) wage bond is  
37 required if an employer has committed multiple violations of  
38 federal or state labor laws governing the minimum wage and  
39 overtime, child labor, occupational safety and health, or worker's  
40 compensation or has been subject to more than one final judgment

1 for unpaid wages in a three-year period. “Multiple violations” as  
2 used in this subdivision, means one or more violations occurring  
3 during three consecutive years or three or more violations in a  
4 three-year period.

5 (c) The bond required by this section shall be in favor of, and  
6 payable to the people of the State of California, and shall be for the  
7 benefit of any employee damaged by his or her employer’s failure  
8 to pay wages, interest on wages, or fringe benefits, or damaged by  
9 violation of Section 351 or 353.

10 2060. No employer may conduct any business without  
11 complying with the registration and bond requirements of this  
12 chapter.

13 2061. The commissioner may not renew the registration of  
14 any employer until all of the following conditions are satisfied:

15 (a) The employer has executed a written application, in a form  
16 prescribed by the commissioner, subscribed, and sworn by the  
17 employer containing the following:

18 (1) A statement by the employer of all facts concerning the  
19 applicants’ character, competency, and responsibility.

20 (2) If the applicant is a corporation, the corporate name, the  
21 names, residential addresses, and telephone numbers of all the  
22 officers of the corporation, the names of all persons exercising  
23 management responsibility in the applicant’s office, and the names  
24 and addresses of all persons having a financial interest of 10  
25 percent or more in the business, and the percentage of financial  
26 interest owned by each of those persons.

27 (3) If the applicant employer is other than a corporation, the  
28 names and addresses of all persons except bona fide employees on  
29 regular salaries, who are financially interested, either as partners,  
30 associates, or profit sharers, in the employer’s car wash business  
31 together with the amount of their respective interests.

32 (b) The commissioner, after investigation, is satisfied as to the  
33 character, competency, and responsibility of the employer.

34 (c) The employer in an oral or written examination, or both,  
35 demonstrated the degree of knowledge of the current laws and  
36 administrative regulations concerning car washing and polishing  
37 employers that the commissioner deems necessary for the safety  
38 and protection of car wash employees and the public. This  
39 examination shall include a demonstration of knowledge of the

1 current laws and regulations regarding wages, hours, and working  
2 conditions and occupational safety and health.

3 (d) The commission shall charge a fee to employers taking the  
4 examination required by subdivision (c), which shall be sufficient  
5 in the aggregate to defray the costs incurred in administering the  
6 examinations.

7 2062. The commissioner may not register or renew the  
8 registration of an employer in any of the following circumstances:

9 (a) The employer has not fully satisfied any final judgment for  
10 unpaid wages due to an employee or former employee of a  
11 business for which the employer is required to register under this  
12 chapter.

13 (b) The employer has failed to remit the proper amount of  
14 contributions required by the Unemployment Insurance Code or  
15 the Employment Development Department had made an  
16 assessment for those unpaid contributions against the employer  
17 that has become final and the employer has not fully paid the  
18 amount of delinquency for those unpaid contributions.

19 (c) The employer has failed to remit the amount of Social  
20 Security and Medicare tax contributions required by the Federal  
21 Insurance Contributions Act (FICA) to the Internal Revenue  
22 Service and the employer has not fully paid the amount or  
23 delinquency for those unpaid contributions.

24 2063. (a) *The commissioner may exempt a business from*  
25 *registration pursuant to this chapter if the commissioner*  
26 *determines either of the following:*

27 (1) *That the employer, for the preceding three years, has paid*  
28 *the prevailing wage and provided fringe benefits, including health*  
29 *benefits, to his or her car wash employees, has complied with all*  
30 *applicable state and federal laws and regulations, and certifies to*  
31 *the commissioner that he or she will continue to do so.*

32 (2) *That the employer operates a gasoline service station with*  
33 *an automated car wash and that no employee renders car washing*  
34 *or polishing services.*

35 (b) *The commissioner may conduct hearings to determine*  
36 *whether any business that engages in car washing and polishing*  
37 *ancillary to its primary business shall be required to register*  
38 *pursuant to this chapter.*

39 2064. An employer who fails to register pursuant to Section  
40 2054 is guilty of a misdemeanor punishable by a fine of not more



1 than one hundred dollars (\$100) for each calendar day the  
2 employer conducts car washing and polishing while unregistered.

3 ~~2064.~~

4 2065. No local agency may issue a business license or permit  
5 to an employer for a car washing and polishing business without  
6 proof that the employer is registered pursuant to Section 2055.

7 ~~2065.~~

8 2066. (a) The Car Wash Worker Fund is established in the  
9 State Treasury. Seventy-five dollars (\$75) of each registrant's  
10 annual registration fee, required pursuant to subdivision (d) of  
11 Section 2055, shall be deposited in this fund. In addition, fines  
12 collected pursuant to Section 2.4 shall be deposited into the fund.  
13 Moneys from the fund shall be disbursed, upon appropriation by  
14 the Legislature, by the commissioner only to persons determined  
15 by the commissioner to have been damaged by the failure to pay  
16 wages and penalties and other related damages by any car wash or  
17 polishing employer, to ensure the payment of wages and penalties  
18 and other related damages. Any disbursed funds subsequently  
19 recovered by the commissioner shall be returned to the fund.

20 (b) The remainder of the registrant's annual registration fee not  
21 deposited into the fund pursuant to Section 2063 shall be applied  
22 to costs incurred by the commissioner in administering the  
23 provisions of this section.

24  
25 CHAPTER 3. SUCCESSORSHIP  
26

27 ~~2066.~~

28 2067. A successor to any employer that is engaged in car  
29 washing and polishing that owed wages and penalties to the  
30 predecessor's former employee or employees is liable for those  
31 wages and penalties if the successor meets any of the following  
32 criteria:

33 (a) Uses substantially the same facilities or workforce to offer  
34 substantially the same services as the predecessor employer.

35 (b) Shares in the ownership, management, control of the labor  
36 relations, or interrelations of business operations with the  
37 predecessor employer.

38 (c) Employs in a managerial capacity any person who directly  
39 or indirectly controlled the wages, hours, or working conditions of  
40 the affected employees of the predecessor employer.



1 (d) Is an immediate family member of any owner, partner,  
2 officer, or director of the predecessor employer of any person who  
3 had a financial interest in the predecessor employer.

4 SEC. 3. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.

